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MEMORANDUM

To: Utah State Building Board
From: F. Keith Stepan
Date: February 4, 2004
Subject: **Legislative Update**

DFCM will discuss the status of budget actions and legislation that have occurred or are anticipated. Those that were known at the time this memo was prepared are summarized below.

Capital Budget:

In its first committee meeting on January 22, the Capital Facilities and Administrative Services Appropriations Subcommittee adopted several guiding principles for their deliberations this session. One of those principles was that the amount of new general obligation bonds for buildings should not exceed the amount that will be paid off (\$64,000,000) and that they would explore alternative methods of funding the Capitol Building Renovation so that it would not apply against this limit. Another principle was that they would do everything they could to preserve the State's AAA bond rating, keep debt short term and pursue debt opportunities while interest rates are low. The third principle adopted was to address general obligation bonds and lease revenue bonds in separate bills. While no motion was adopted, the subcommittee also discussed that the amount of lease revenue bonds for state entities that will be repaid is \$17.9 million.

While the subcommittee discussed the importance of the capital improvement funding, no clear statement has yet been made regarding the level of funding that will be appropriated. There are indications, however, that capital improvements will be funded at the 0.9% level allowed when the State is in budget difficulty. This formula is 0.9% of the replacement value of state facilities excluding auxiliary facilities. This would provide funding of \$43,977,000. If the full 1.1% funding were provided, this would amount to \$53,750,000.

Under the current schedule for subcommittee meetings, the Building Board will meet with the subcommittee on February 4 which is the same day as the Board meeting. That meeting is scheduled from 2:00 to 5:00 in room 403 of the State Capitol Building. The Legislative Fiscal Analyst's capital budget recommendations will be presented at that meeting and will not be released until shortly before the meeting. The current schedule also indicates that DFCM's operating budgets and the Percent For Art program will be discussed in that meeting.

DFCM is aware of two additional "Other Funds" projects that will be presented to the Legislature that have not been discussed with the Board. In its meeting on January 16, the Board of Regents approved the following two projects to be pursued in this legislative session.

Purchase of Board of Regents Building

In 2001, the Board of Regents purchased the majority of the space it is currently occupying in its new building in Gateway. The purchase was financed through a revenue bond issued through the higher education student loan program. The level of debt authorized by the Legislature at that time was insufficient to purchase all of the space needed. The current proposal is to purchase first two floors and mezzanine which is the balance of this building, much of which is already being leased by the Board of Regents. Financing of the purchase cost of \$3.6 million would occur in the same manner as the original transaction.

Purchase of SLCC Metro Campus

Several years ago, Salt Lake Community College entered into a long-term lease for a building at 115 South Main in Salt Lake City. A number of problems then arose regarding the condition of this building as well as several other legal difficulties with the owner. SLCC believes that the best solution available to them at this time is to purchase the building to eliminate the current lease obligation. DFCM understands that the terms of the transaction require that the seller make a substantial investment to upgrade the condition of the building.

Operating Budgets:

DFCM is not currently aware of any consideration to significantly change its operating budgets from the levels and funding sources approved for the current year. This would mean that DFCM's administrative budget would be funded from a combination of capital improvement funds and excess balances in the Project Reserve and Contingency Reserve.

Legislation:

Of the legislation that was available at the time this information was prepared, the following bills appear to have the potential of significantly impacting the Board or DFCM. Legislative actions taken through January 22 are noted. If no legislative action is noted, the bill has not yet received any action other than being introduced. Other legislation that comes to light before the Board meeting will be presented at the meeting.

HB 30 – Amendments to Administrative Services Rate Committee, Rep. David Clark

This bill clarifies the process for review and approval of rates charged by internal service funds. It also requires that a market analysis of rates be completed by July 1, 2005. DFCM's Facilities Management program is an internal service fund and would be affected by these requirements. The House has passed this bill and it is now being considered by the Senate.

HB 173 – Liability Insurance for Contractors – Monitoring System, Rep. Michael Morley

This bill expands the responsibility of the Division of Occupational and Professional Licensing (DOPL) to include monitoring compliance with insurance requirements associated with contractor licenses. It also requires insurers to report monthly to DOPL regarding the status of contractors' comprehensive general liability insurance policies. Failure to maintain required insurance would be grounds for suspension or revocation of licensure.

HB 205 – State Settlement Agreements Amendments, Rep. Wayne Harper

This bill exempts settlements of claims resolved under DFCM's internal dispute resolution processes from requirements for Governor's and legislative approvals. This bill is associated with HB 217.

HB 215 – Uniform Building Standards Amendments, Rep. Stuart Adams

This bill requires DOPL to adopt building codes for energy conservation, fuel gas, and one and two family residential construction.

HB 217 – Changes to DFCM Contract Procedures and Requirements, Rep. Wayne Harper

This bill requires DFCM to establish through administrative rules a claims and dispute resolution process for contractors, subcontractors and other entities involved with contracts under DFCM's procurement authority. The bill identifies items that must be addressed in this rule and requires that the proposed rule be presented to the Government Operations Interim Committee for its review and comment by August 31, 2004. The rule will set requirements that must be met in order for a claim to be submitted into the process and the options that are available for appeal. The bill also sets maximum time periods for resolution of the claim and states that a decision under this process stands unless property appealed. The bill also specifies some provisions that must be addressed in DFCM's construction contracts. Most of these provisions are already addressed in DFCM's contracts and this portion of the bill is not expected to make any substantive changes. DFCM has been working with Representative Harper along with Rep. Stephen Clark to develop a bill that is workable from DFCM's perspective.

HB 226 – Legislative Approval of Capital Projects, Rep. David Ure

Several years ago, Rep. Gerry Adair carried legislation that gave the Building Board the authority to approve projects that do not include state funds in the design and construction of the project or the operations and maintenance and capital improvements of the resulting facility. That bill did not define what constitutes "state funds". HB 226 provides a definition of "state funds" that includes all funds held or controlled by a state agency or institution except for "monies donated for a specific capital development project." This definition is so tight that DFCM does not believe that any projects for state entities would ever qualify for approval by the Building Board. As a result, these projects would need to go to the Legislature for approval. The only projects that the Building Board would be able to approve would be requests by non-state entities to construct a building on state property with their funds.

HB 228 – Sale, Exchange or Donation of Real Property by State Agencies, Rep. David Ure

This bill establishes a number of process and approval requirements for the disposition of real property by DFCM, UDOT, and the Department of Natural Resources. This includes process requirements that DFCM already follows in virtually all property dispositions such as public notice and obtaining an impartial appraisal. It requires that property be sold for not less than 95% of the appraised value. It gives the Building Board the authority to approve sales at less than 95% of appraised value if no one is willing to pay that price. It requires that DFCM deposit proceeds from its sales into the General Fund. The bill also requires that all sales, exchanges and donations of property with an appraised value greater than \$100,000 be approved by the Governor. If the appraised value is greater than \$500,000, it must be reviewed with the Legislative Management Committee and if greater than \$1,000,000, it must be approved by the Legislature in a general or special session. DFCM has a number of concerns with how the bill is worded that it is attempting to resolve with the Legislature.

SB 15 – Carryover of Authorized Capital Outlay Amendments, Sen. Beverly Evans

Current statutes require the Legislature to authorize the level of capital outlay for internal service funds. This bill provides that these authorizations lapse at the end of the fiscal year.